

REMARKS

1. Preamble

The Office Action of April 22, 2009 (thereafter, "OA"), rejects all active claims of Applicant's invention as being unpatentable over US patent 6,803,930 ("Simonson"). In the following sections Applicant overcomes claim rejections and responds to Examiner's arguments.

2. Preliminary remarks

2.1. OA contradicts itself

When rejecting independent Claim 3 OA states:

"it would have been obvious to one of skill in the art, at the time the invention was made, to implement the **time delay** at the previously viewed portion of the document instead of at the destination portion as in Simonson." (OA, 3: 19-21, highlight added).

However, on page 7 the OA states the following:

In response to the argument that the applicant's invention does not teach any time delays, the argument is acknowledged by the examiner and **the term "time delay" will not be further used** in the rejection. (OA, 7:11-14, emphasis added).

Therefore, OA directly contradicts itself.

2.2. OA returns to a previously abandoned inaccurate statement

When rejecting independent Claim 3, OA states:

In this case, since the "previously viewed portion" has been displayed for viewing, i.e., has been presented **for more than a predetermined amount of time** it would have been a common sense to implement the displaying of the visual cue based on the "previously displayed portion" to avoid further delay. (OA, 5: 13-16, highlight added).

The term "more than a predetermined amount of time" was previously used by Examiner (e.g., Office Actions of: March 26, 2008; 3:13-15) in the rejection to refer to Simonson's improvement. However, as Applicant repeatedly argued (Amendment J of June 16, 2008, section 2.1.2; Amendment K of August 28,

2008, section 5), it was a misunderstanding. In fact, it is easy to see that Simonson does **not** teach displaying a first portion for a **predetermined** amount of time.

Eventually, Examiner agreed with Applicant's arguments:

In response to the argument that Simonson's term "previously viewed portion" **does not imply displaying the portion for more than a predetermined amount of time**, the applicant's rationale is acknowledged. (Office Action of November 17, 2008, 6: 8-10, highlight added)

Accordingly, Examiner stopped using the term "predetermined amount of time" in the rejection. Very respectfully, Applicant submits that he is surprised that a statement, which was abandoned after a long discussion, is used again in the OA.

2.3. On the meaning of "delay"

Several fragments of OA (9:11-21, 13:5-21) discuss the meaning of "delay", question Applicant's understanding of "delay", and imply that Applicant's interpretation of "delay" is not applicable to Simonson's improvement. In particular, OA says:

In response to applicant's interpretation of delay as "stopped for a time", the interpretation is not accurate in the context of Simonson. (OA, 9:11-12).

Applicant respectfully submits that it is not his interpretation that is questioned by the Examiner. Instead, it is how "delay" is defined in authoritative dictionaries of the English language. Apparently, this meaning is fully applicable to Simonson -- "stopping something for a time" inherently implies that the situation can change and the "something" never comes true.

3. Overcoming claim rejection of independent Claims 3 and 20

3.1. Claim 3 reads as follows:

3. A method of displaying information in a window on a computer system including a display, said window displaying only part of its related information, the method comprising:

providing a window for displaying information; further comprising the step of

providing means for scrolling the window; and
displaying in the window a first portion of its related information; and
scrolling the window to a second portion of its related information, further
comprising the step of

causing visual clues, visually distinguishing new information from old
information that overlaps from said first portion and has been displayed
in the previous view for more than a first predetermined amount of
time, to be displayed in the window after scrolling from said first portion
to said second portion; and

disabling the distinguishing visual clues after a second predetermined amount of
time.

3.2. Applicant's invention has novel features

As indicated above, Applicant's invention discloses novel features. As opposed to prior art, including Simonson, it teaches presenting visual clues depending on the display time of the PREVIOUS view. According to the best of Applicant's knowledge, no prior art teaches presenting objects in a window *after* scrolling depending on the time of presenting information in the window *before* scrolling. Prior art, for instance Simonson, only teaches displaying visual clues in a window depending on the time of displaying information in THE SAME WINDOW. The present invention represents "thinking out of the box", not suggested by prior art, and discloses a novel type of a dynamic interplay between displaying TWO successive window views.

Examiner explicitly agrees with Applicant that Applicant's invention has novel features. In particular, the novelty of the invention over Simonson is acknowledged in a number of Office Actions (e.g.: "...Simonson does not teach displaying of the visual clue if it is determined that the previously displayed portion had been displayed for more than a predetermined amount of time." – OA, 3:16-18). Examiner's chart (e.g., OA, pages 8-9) clearly shows that the claimed invention and Simonson work differently.

Let's take a closer look at how Applicant's invention differs from Simonson. Here is a brief summary of Applicant vs Simonson.

Applicant's invention:

1. Display a first portion of information.
2. Scroll to the second portion and register the time T during which the first portion has been displayed.
3. Display visual clue only if the time T exceeds a predetermined amount of time ("t").

(**purpose:** to display visual clue ONLY if the "old" information was actually read, not only displayed to the user).

Simonson:

1. Scroll from a first to the second portion.
2. Wait for time a predetermined amount of time ("t"), and if the view is unchanged, display visual clue

(**purpose:** to avoid persistent background tinting when quickly scrolling through a series of views).

The subject matter of the inventions is represented with simplified flow charts in Figures 1a and 1b below (for more specific representations of Applicant's invention, see Figures 3-2, 5-1, and 5-2 of Applicant's application)

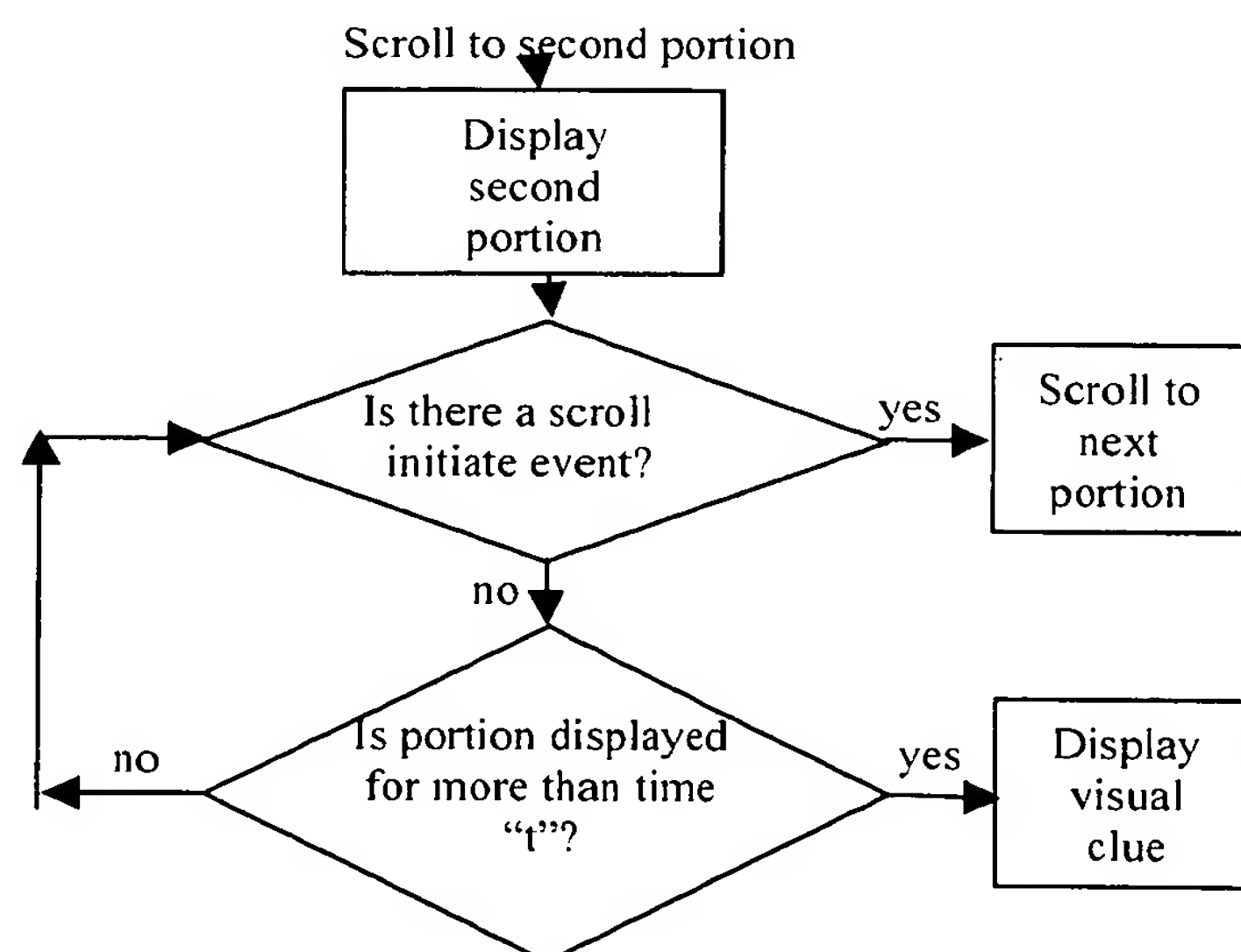


Fig. 1a. Simplified flow chart representation of Simonson (improvement)

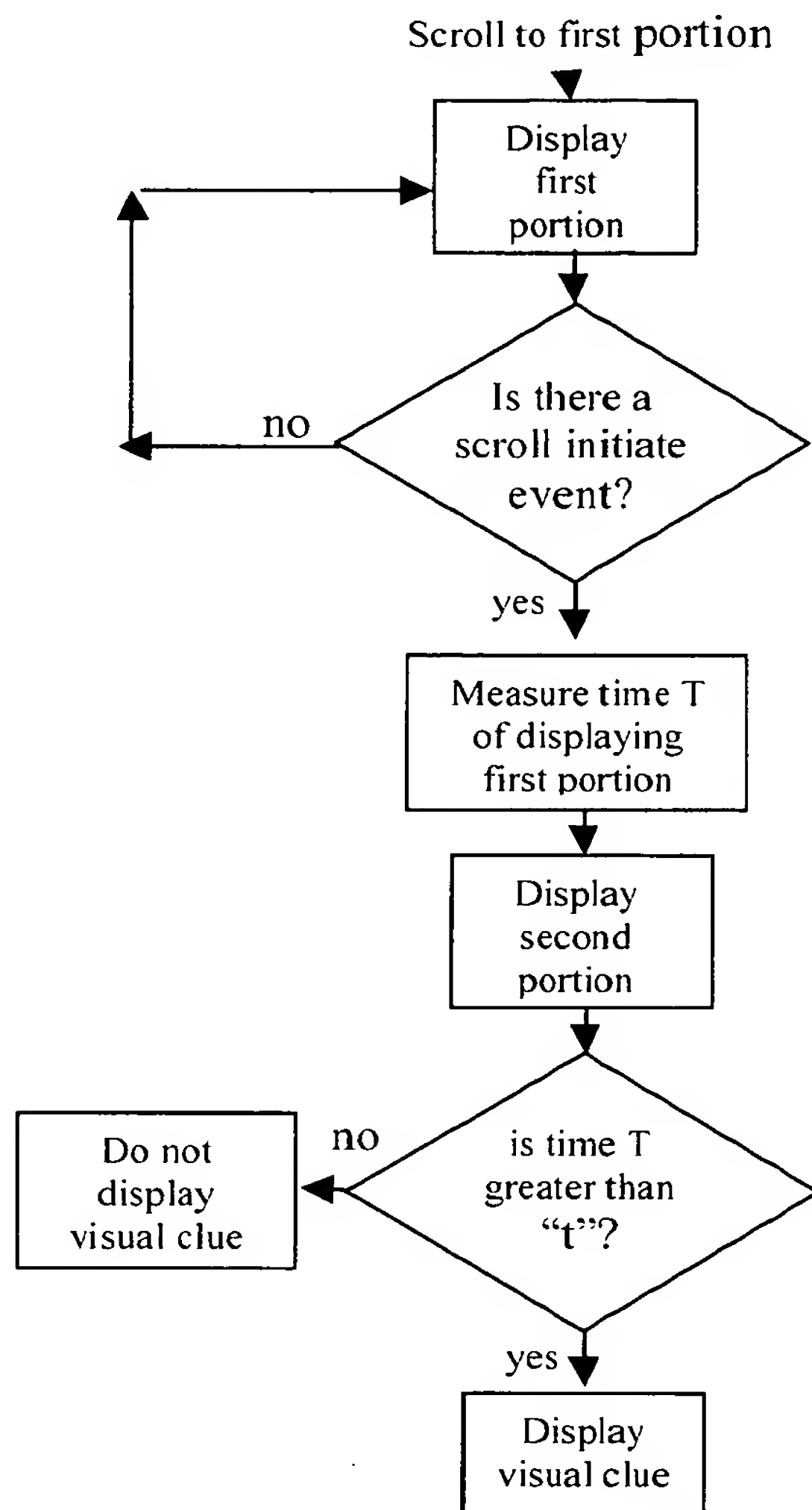


Fig. 1b. Simplified flow chart representation of Applicant's invention

Applicant's invention is an opposite to Simonson in a number of key aspects. In particular, the claimed invention teaches:

- (a) registering the time of displaying window A (inherently included) and
- (b) deciding whether or not display the visual clue depending on the time (i.e., displaying it only if the time exceeds a predetermined amount of time).

None of this is disclosed by Simonson, who:

- (a) does not take into account the time of displaying the previous window (as Examiner points out, Simonson "don't care" about the time of displaying the previous window; e.g., OA, 9:1), and

(b) the decision about whether or not to display visual clue does **not** depend on for how long the previous window was displayed.

Some of the main differences between Applicant’s invention and Simonson’s improvement are summarized in Table 1 below.

Table 1.

	Applicant	Simonson (improvement)
Time delay	<i>Has nothing to do with delay</i>	<i>Key subject matter</i>
Time of displaying pre-scroll view	<i>Critically important</i>	<i>“Don’t care” (OA, 8:15, 9:1)</i>
Visual clue is displayed depending on the display time of pre-scroll view	<i>YES</i>	<i>NO</i>
Visual clue is displayed depending on the display time of post-scroll view	<i>NO</i>	<i>YES</i>
Advantages	<i>Visually differentiating actually read (rather than simply displayed) content</i>	<i>Avoiding persistent background tinting</i>

3.3. Applicant’s invention produces new and unexpected results

Applicant submits that his invention produces new and unexpected results. While OA essentially de-emphasizes the advantages of the invention, it appears to indirectly refer to them when mentioning “... providing a visual clue indicating overlapping portion between a new scrolled-in page and a viewed (read) page” (OA, 13:1-2) as opposed to “ .. between a new scrolled-in page and an immediately preceded page.” (OA, 13:2). This quote indicates that OA recognizes that Applicant’s invention has a different purpose than Simonson. *Visually differentiating between new information and information that was*

actually read (as opposed to simply presented in the preceding pre-scroll view) is a useful result produced by Applicant's invention.

OA tends to downplay the advantages of Applicant's invention and emphasize the (alleged) advantages of Simonson. Applicant finds some of these arguments less than convincing. For instance, the statement that Simonson's displaying of visual clues in disjoint scrolling should not be disorienting (OA, 9:5-10) contradicts not only to common sense – since the visual clue **directs** reader's attention, and in the case of disjoint scrolling it directs the attention to a **wrong** place – but, to some extent, also to an earlier OA's statement "Note: It is un-preferable to Simonson to display the visual cue in the next page in disjoint scrolling." (OA, 3:18-20). However, Applicant does not intend to argue about whether he or Simonson is "right". It would be safer to say that Applicant's invention, which has a different purpose than Simonson, *also* produces a useful result, but a different one.

It is a new and unexpected result. There is no suggestion in the prior art, including Simonson, on how to provide the advantages actually provided by the invention. To the best of Applicant's knowledge, the problem solved by the invention was never before even recognized.

3.4. Applicant's invention is unobvious

As discussed above, OA explicitly acknowledges that Applicant's invention has a novel feature and implies that the invention may be useful in some way. However, OA claims that the novel feature of Applicant invention is not unobvious; it is just a slight modification of Simonson's improvement:

The different between the claimed invention and the prior art is that the "predetermined amount of time" is measured at the display of the previous page (applicant's invention) instead of being measured at the scrolled-in new page (Simonson). The difference would have been obvious to one skilled in the art as set forth above. (OA, 14:4-8)

Applicant submits that employing a “predetermined amount of time” at the previous page rather than a scrolled-in page is not a “slight and obvious” modification of Simonson, as suggested by OA. On the contrary:

- (a) nothing whatsoever in Simonson suggests that “predetermined amount of time” can be implemented at displaying the previous page
- (b) implementing “predetermined amount of time” at displaying the previous page contradicts to Simonson’s teaching of delay
- (c) implementing “predetermined amount of time” at displaying the previous page requires new and unobvious subject matter, not anticipated by Simonson, and produces new and unexpected results.

These arguments are presented in detail below.

3.4.1. Nothing whatsoever in Simonson (or general knowledge) suggests that “predetermined amount of time” can be implemented at displaying the previous page instead of the current page

OA contains several pages of references to court’s decisions, pointing out that new subject matter can be obvious even if it is not a precise teaching of prior art (OA, 4:3-5:12, 6:3-10, 10:12-12:3, 12:13-19). Applicant has thoroughly studied the references and found that they cannot be used against his invention (and, since they can be applied to ANY subject matter, cannot be considered a substitute for specific arguments). A key reason is provided by OA itself. OA states that:

It has been held that obviousness can only be established by combining or modifying the teaching of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. (OA, 4:3-6).

As shown below, there is no suggestion to employ a “predetermined amount of time” at the previous page, rather than a scrolled-in page, in either Simonson (prior art) or general knowledge.

SIMONSON:

OA uses two arguments supporting the claim that there is something in Simonson, which suggests Applicant's subject matter: (a) that Simonson's "previously viewed portion" implies that the portion has been presented for more than a predetermined amount of time (OA, 5:13-16), and (b) that Simonson discloses a teaching of delay, which teaching, somewhat differently, is implemented in Applicant's invention (OA, 3:19.21).

However, as discussed in detail in section 2 above, both of these statements had been previously explicitly recognized as incorrect and therefore abandoned by the Examiner (and Applicant respectfully submits that it is most unfortunate that these previously discussed and discarded statements are used again in the rejection). *Therefore, OA fails to produce ANY evidence that there is anything in Simonson, which would suggest that "predetermined amount of time" can be implemented at displaying the previous page.*

GENERAL KNOWLEDGE:

Very respectfully, Applicant submits that when claiming a similarity between Simonson and Applicant's invention, respected Examiner somewhat mischaracterizes Applicant's subject matter. Examiner states:

In either method, the visual clue can only be displayed after a predetermined amount of time, begins from the displaying of the previous page (the claimed invention) or from the displaying of new scrolled-in page (Simonson). (OA, 10:2-8, highlight added).

The above statement is not accurate. Applicant's invention is different from Simonson -- it does **not** teach displaying a visual clue **after** a predetermined amount of time, as Simonson does. Let's assume that the predetermined amount of time "t" is one second, while the display time T of the previous view is one hour (which time is not predetermined, the user can scroll whenever they wish). It is easy to see that, as opposed to Simonson, no clue is displayed after the predetermined amount of time, that is, one second (time "t"). The clue is displayed in fact one hour later, when the user scrolls to the next window.

By pointing to the above inaccuracy, Applicant has no intention to criticize respected Examiner. Undeniably, respected Examiner's skill in the art (and knowledge of Simonson's and Applicant's subject matter) is surely way above average, and still he seems to overlook important *unobvious* differences between implementing "predetermined amount of time" at displaying the previous, rather than current, page. Arguably, a person of ordinary skill in the art is even less likely to grasp the differences. It indicates that general knowledge does not tell *that "predetermined amount of time" can be implemented at displaying the previous page, and how I can be implemented.*

3.4.2. Implementing "predetermined amount of time" at displaying the previous page contradicts to Simonson's teaching of delay

OA (e.g., 14:2-4) suggests that Applicant's invention is a slight modification of Simonson: i.e., basically the same teaching is implemented, with a small difference that the "predetermined amount of time" is measured in a previous view, rather than in the current view. However, OA essentially acknowledges that Simonson and Applicant's inventions are different teachings. Simonson's teaching is explicitly described by Simonson as a teaching of *delay*. But Applicant's invention is not a teaching of delay:

In response to the argument that the applicant's invention does not teach any time delays, the argument is acknowledged by the examiner and the term "time delay" will not be further used in the rejection. (OA, 7:11-14).

Therefore, *implementing "predetermined amount of time" at displaying the previous page contradicts to Simonson's teaching of delay and means abandoning the teaching of delay.* Examiner has not produced any convincing reasoning why *abandoning* a teaching of delay would be an *obvious modification* of the teaching of delay.

3.4.3. Implementing "predetermined amount of time" at displaying the previous page requires new and unobvious subject matter, not anticipated by Simonson, and produces new and unexpected results.

As flowcharts in Figure 1a and Figure 1b above illustrate, simply saying that both Applicant and Simonson teach displaying the visual clue if a page is presented for more than a predetermined amount of time (e.g., OA, 14:2-4) conceals important differences between the inventions.

The Figures clearly show that Applicant's invention teaches new and unobvious subject matter regarding to how exactly implement "predetermined amount of time" at displaying the previous page.

In addition, OA (e.g., 14:2-4) implies that **the same** visual clue is implemented in both Applicant and Simonson. It is not true. As testified, for instance, by Examiner's chart (OA, p. 8-9) and OA discussion (OA, 12:20-13:4), Applicant teaches a different clue than Simonson: the one that differentiates between new and actually read information, rather than (as Simonson) differentiate between new and immediately preceded view. Thus Applicant produces new results, not anticipate by Simonson.

3.4.4. Conclusion

Therefore, "implementing the predetermined amount of time at the previous view rather than the current view" is not a slight an obvious modification; it means a different way of how "the predetermined amount of time" is implemented; and this different way of how "the predetermined amount of time" is implemented is new an unobvious. The meaning of "clue", "page", "predetermined amount of time", and how the predetermined amount of time is implemented, are different in the contexts of these two inventions. Applicant's invention uses "the predetermined amount of time" is a different way, not anticipated by Simonson. Moreover, nothing in Simonson (nor general knowledge) suggests that the predetermined amount of time can be implemented at the previous view rather than the current view. Finally, Applicant's invention, as described in section 3.3 above, produces new and unexpected results, not produced by Simonson. Therefore, it is not a "slight and obvious modification" of Simonson.

An additional note: On July 15 Applicant ran a search in the USPTO patent database of issued patents, looking for "predetermined amount of time" in the field "Claims" AND "display" in the field "Abstract". The search produced 6028

hits. It implies that “predetermined amount of time” when displaying information can be implemented in, literally, thousands of different patentable ways, which is arguably also the case of Applicant’s invention.

3.5. Overcoming claim rejection for independent claims 3 and 20

As shown above in 3.2, Claim 3 discloses a **novel feature**. No other prior art teaches displaying differentiating visual clues in a window after scrolling only if the “old” information has been displayed before scrolling for more than a predetermined amount of time. As explicitly acknowledged by Examiner (e.g., OA, 3:16-18), Simonson does not teach that. This novel feature also produces **new, unexpected, and useful results** (see 3.3 above). Applicant’s invention visually differentiates between new and actually read (rather than simply previously displayed) information in the window. Simonson (and, according to the best of Applicant’s knowledge, any prior art) can do that. **Therefore, Applicant respectfully submits that independent Claim 3 is patentable over Simonson.**

In addition, as argued in 3.4 before, Applicant’s invention implements “the predetermined amount of time” in a new and unobvious way, compared to Simonson.

It should also be noted that the invention is made in an area of *crowded art*. In addition to Simonson, several other patents and patent applications teach visual clues for scrolling (e.g., US patents, #6, 476, 831; #6, 750, 886; US patent application publication 2002/0126154). The claimed invention is different from all of them and adds a new and important subject matter.

Similarly, independent claim 20 is patentable over Simonson, as well.

4. Overcoming claim rejection for dependent claims

As for claims 5-6. Dependent claims 5 and 6 incorporate subject matter of claim 3 and add additional subject matter, which makes them patentable.

As for claim 14. Simonson does not teach an effective area that can be defined as an area *within* a window (cf. 9:35-41). Claim 14 incorporates the subject matter of claim 3 and adds additional subject matter.

As for claim 15 . Claim 15 incorporates the subject matter of claims 3 and 14 and adds additional subject matter, which makes it patentable. Window navigation methods, techniques, and widgets, described by Simonson (2:42-3:42) do not teach using a screen pointer to set coordinates of an effective area within a window.

As for claim 16. Claim 16 incorporates the subject matter of claims 3 and 14 and adds additional subject matter, which makes it patentable over prior art. Simonson (8:15-32) does not teach using a screen control to set coordinates of an effective area within a window.

As for claims 17, 26. Claims 17 and 26 incorporate the subject matter of claims 3 and 20 and add additional subject matter, which makes them patentable.

As for claim 18. Claim 18 incorporates the subject matter of claim 3 and adds additional subject matter, which makes it patentable over prior art.

As for claim 24. Claim 18 incorporates the subject matter of claim 20 and adds additional subject matter, which makes it patentable over prior art.

As for claim 28. The claim refers to a special case of adjacent scrolling (as opposed to scrolling described in Simonson 9:3-13), which has not been specifically mentioned in prior art known to applicant.

5. An informal subject matter clarification

Previously Applicant provided a number of formal logical arguments, indicating that Simonson's improvement is impossible to "slightly modify" by simply substituting "current page" with "previous/pre-scroll page" (e.g., in previous sections of this Response, Amendment K filed on August 28, 2008, section 2; Amendment L filed on February 17, 2009, sections 2 and 4.1). Here Applicant makes a less formal attempt to communicate this notion and clarify his point, which is intended to *complement* previous logical analyses.

Imagine that person A is staying in line to enter a restaurant. Another person, B, arrives and intends to enter the restaurant before person A. "Why aren't you waiting in line, as other people do?" – person A asks. Person B replies: "I decided to come here and wait yesterday, instead of today, to be able to enter today without waiting". "But it is a very strange thing to do. You still need to stay

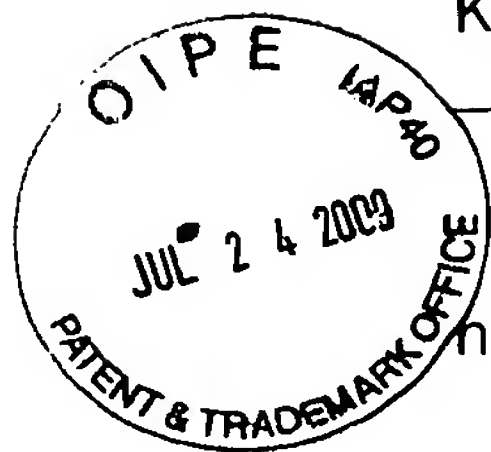
in line!!” – complains person A. Person B replies: “No, you are wrong. It is an obvious modification of the “waiting in line” procedure. Basically, there is no difference between us – we both are going to be served after waiting for a certain amount of time. The only – very slight -- difference is that I waited yesterday instead of today.”

In the above case it is apparent that simply implementing delay -- or waiting - - at an earlier phase of activity instead of the current phase of activity may formally look a “slight difference” but in fact it would not make any sense. To make it meaningful, a different and unobvious subject matter should be added (e.g., table reservation as opposed to waiting in line). This also applies to Applicant’s invention vs. Simonson.

Applicant’s invention is not an obvious modification of Simonson, that is, a straightforward “combination” of Simonson and measuring the time of displaying the pre-scroll view, rather than the current view. The allegedly “slight modification” (using the display time of a pre-scroll view instead of the scroll-in view) is in fact not slight at all. While Simonson’s teaching is a teaching of time delay, the proposed “combination” (Applicant’s subject matter) has nothing to do with time delay. New and unexpected results are produced. As Fig. 1b shows, a new algorithm needs to be implemented. There are also other differences, which are not obvious and cannot be accounted for by “ordinary creativity”.

6. Repeating arguments, re-opening closed issues

Very respectfully, Applicant submits that he is concerned that the patent prosecution in his case is unnecessarily delayed by the need to repeat essentially the same arguments several times before they are acknowledged, and, which is especially frustrating, re-address Examiners’ statements, which had been explicitly abandoned before but then are somehow used in rejection again. It decreases the term of the prospective patent (let alone it incurs weeks of additional work and hundreds of dollars in additional fees). Very respectfully, Applicant notifies that he is considering the option of filing an appeal (for one thing, patent term is not being decreased when an application is under appeal).



Of course, Applicant does not want to resort to this option and hopes he will not be forced to do so.

7. Concluding remarks

For all of the above reasons, applicant submits that the specification and claims are now in proper form, and that the claims all define patentably over the prior art. Therefore he submits that this application is now in condition for allowance, which action he respectfully solicits.

8. Conditional request for constructive assistance

If, for any reason, this application is not believed to be in full condition for allowance, applicant respectfully requests the constructive assistance and suggestions of the Examiner in order that the undersigned can place this application in allowable condition as soon as possible and without the need for further proceedings.

Very respectfully,

A handwritten signature in black ink, appearing to be "V. Kaptelinin", written over a horizontal line.

Viktor Kaptelinin

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Certificate of mailing: I certify that on the date below (US time) I will fax this document and references attachments, if any, to the Patent and Trademark Office at the following number: **(571) 273-8300**

Date: July 16, 2009

Inventor's signature: 